

SUBJECT: Rezoning application for Sector 5 of Warriewood Valley R0001/05

Meeting: Planning an Integrated Built Environment Committee

Date: 17 August 2009

STRATEGY: Land Use & Development

ACTION: Coordinate land use planning component of land release

PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement to recommence the statutory LEP making process for Sector 5 of Warriewood Valley by utilising the recently introduced "gateway determination" process.

1.0 BACKGROUND

- 1.1 On 2 February 2005, a rezoning application was lodged for 4 and 8 Forest Road in Warriewood. These two sites make up Sector 5 of Warriewood Valley Urban Land Release Area (see Attachment 1 for location map) and are currently zoned 1(b) Non-urban.
- 1.2 Council, at its meeting of 5 November 2007 resolved as follows:
- "1. That the statutory process under the Environmental Planning and Assessment Act 1979, to make a draft Local Environmental Plan to amend the zoning of Lot B DP 370222 and part of Lot 1 DP 5055 at 4-8 Forest Road, Warriewood, from zone Non-Urban 1(b) to 2(f) (Urban Purposes - Mixed Residential), under Pittwater Local Environmental Plan 1993, as set out in Appendix 1 to this report, be commenced.*
 - 2. That the certified draft Local Environmental Plan be placed on public exhibition to enable any person to make a written submission to Council.*
 - 3. That as requested by the applicant, opportunities to facilitate the residual land within Lot 1 in DP 5055 being brought into public ownership be investigated separate to the progress of the Sector 5 rezoning Masterplan process.*
 - 4. That an updated Bushfire Report that addresses the requirements of Planning for Bushfire 2006 be provided to Council and comments be sought from the Rural Fire Service at Section 62 stage of the statutory rezoning process. Specific comment is required from the RFS to confirm APZ areas shown on Masterplan JUB02-DA-01 (June 2006) are acceptable.*
 - 5. That the applicant prepare an updated Water Management Report to be provided to Council at the Section 62 stage of the statutory rezoning process that reduces the overland flow through the adjoining community title property and provides additional water storage throughout the Sector for reuse by residents and fire fighting services."*

The masterplan adopted is at Attachment 2.

- 1.3 Since the Council resolution, Council officers have been working with the applicant to resolve the water and bushfire management issues that have prevented the rezoning from progressing to Section 62 of the EP&A Act.
- 1.4 The applicant provided Council with the required information where the final information was received on 30 June 2009. Council officers are now satisfied that the additional information is sufficient to proceed, and satisfies matters 4 and 5 of Council's resolution.
- 1.5 The residual land of Lot 1 in DP 5055, being matter 3 of Council's resolution, will need to be pursued separately with the landowner and does not form part of the rezoning for Sector 5.

2.0 ISSUES

- 2.1 Planning reforms, introduced on 1 July 2009, are intended to simplify the LEP making process. A diagram of the new local plan making process is shown at Attachment 3.

Under this process, Council is required to prepare a planning proposal, which is submitted to the Department of Planning (following Council resolution) where it is put through a gateway determination process. The gateway determination process confirms certain matters including the required level of community consultation, in particular whether it is exhibited for a minimum of 14 or 28 days. Subsequently, community consultation is undertaken after Council and the Department of Planning has considered, and approved to proceed with, the rezoning.

- 2.2 Following a request from the applicant to utilise the new LEP making process, on 28 July 2009, the Department of Planning advised Council officers that should Council wish to utilise the new LEP making process, it could, as the relevant planning authority, resolve to prepare a planning proposal and send it to the Minister for a gateway determination. The applicant was subsequently advised.
- 2.3 In order to efficiently finalise the rezoning of Sector 5, Council officers and the applicant believe that the best way forward is to utilise the process administered under the new LEP making system. Subsequently, Council officers have prepared a planning proposal (Attachment 4), which provides justification for the rezoning and will form the basis of the LEP. The planning proposal will be the document that will be exhibited during the community consultation process.

3.0 FORWARD PATH

- 3.1 If Council agrees with the recommendation put forward in this report, the planning proposal will be submitted to the Department of Planning as a request to formally commence the LEP making process. The Department of Planning will then advise Council of the outcome of the request and subsequent community consultation requirements. If progressed, a report will be presented to Council on the outcome of the community consultation process.

4.0 SUSTAINABILITY ASSESSMENT

4.1 Supporting & Connecting our Community (Social)

- 4.1.1 Progressing the rezoning of Sector 5 via the new LEP making process in a timely manner, contributes towards completing the Warriewood Valley Urban Land Release Area in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997).

Once rezoned the land is able to be developed for new residences providing new housing stock and additional residents that will enhance the Warriewood Valley community.

4.2 Valuing & Caring for our Natural Environment (Environmental)

- 4.2.1 The initial rezoning application was accompanied by relevant environmental assessments and studies (detailed in the planning proposal at Attachment 4), which have been reviewed by relevant Council officers. After several additional information requests, Council officers now believe that all environmental issues have been adequately addressed.

In addition, as Sector 5 forms part of the Warriewood Valley Urban Land Release Area, all environmental elements were assessed as part of a holistic assessment undertaken prior to the land release, the same assessment that informs the Warriewood Valley Urban Land Release Draft Planning Framework (1997).

Notwithstanding this, once the subject lots have been rezoned, Development Applications will need to be lodged for all new residential dwellings, which will require assessment under Section 79C of the EP&A Act. Section 79C requires any potential environmental impacts to be addressed as part of a Development Assessment.

4.3 Enhancing our Working & Learning (Economic)

- 4.3.1 Progressing the rezoning of Sector 5 will result in releasing land for residential development resulting in economic benefits associated with Warriewood Valley Urban Land Release on the whole.

4.4 Leading an effective & Collaborative Council (Governance)

- 4.4.1 Progressing the rezoning of the subject lots, via the new LEP making process, is in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997) prepared by Council prior to the commencement of the land release. This supports Council as an effective governance authority.

As part of the rezoning process, Council will undertake community consultation and engage relevant stakeholders, which supports Council as a collaborative governance authority.

4.5 Integrating our Built environment (Infrastructure)

- 4.5.1 As Sector 5 forms part of the Warriewood Valley Urban Land Release Area, its rezoning will contribute to completing the land release in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997), and subsequently contribute to integrating our built environment.

5.0 EXECUTIVE SUMMARY

- 5.1 Council received an application seeking to rezone the land in Sector 5 to residential in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997). After resolving many deficiencies with the rezoning application, Council officers are now satisfied with the additional information. In order to progress the rezoning, the applicant and Council officers consider that the most effective way forward is to utilise the new LEP making process recently introduced.
- 5.2 The Department of Planning has advised Council officers that should Council wish to utilise the new LEP making process, it could, as the relevant planning authority, resolve to prepare a planning proposal and send it to the Minister for a gateway determination.

- 5.3 This report recommends the recommencement of the rezoning process via the new LEP making system, which will entail submitting the planning proposal (at Attachment 4) to the Department of Planning to undergo a gateway determination. Council officers and the applicant believe that this is the most efficient means of rezoning the subject lots.
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RECOMMENDATION

That Council endorse the progression of the rezoning application for Sector 5 of Warriewood Valley via the new LEP making system.

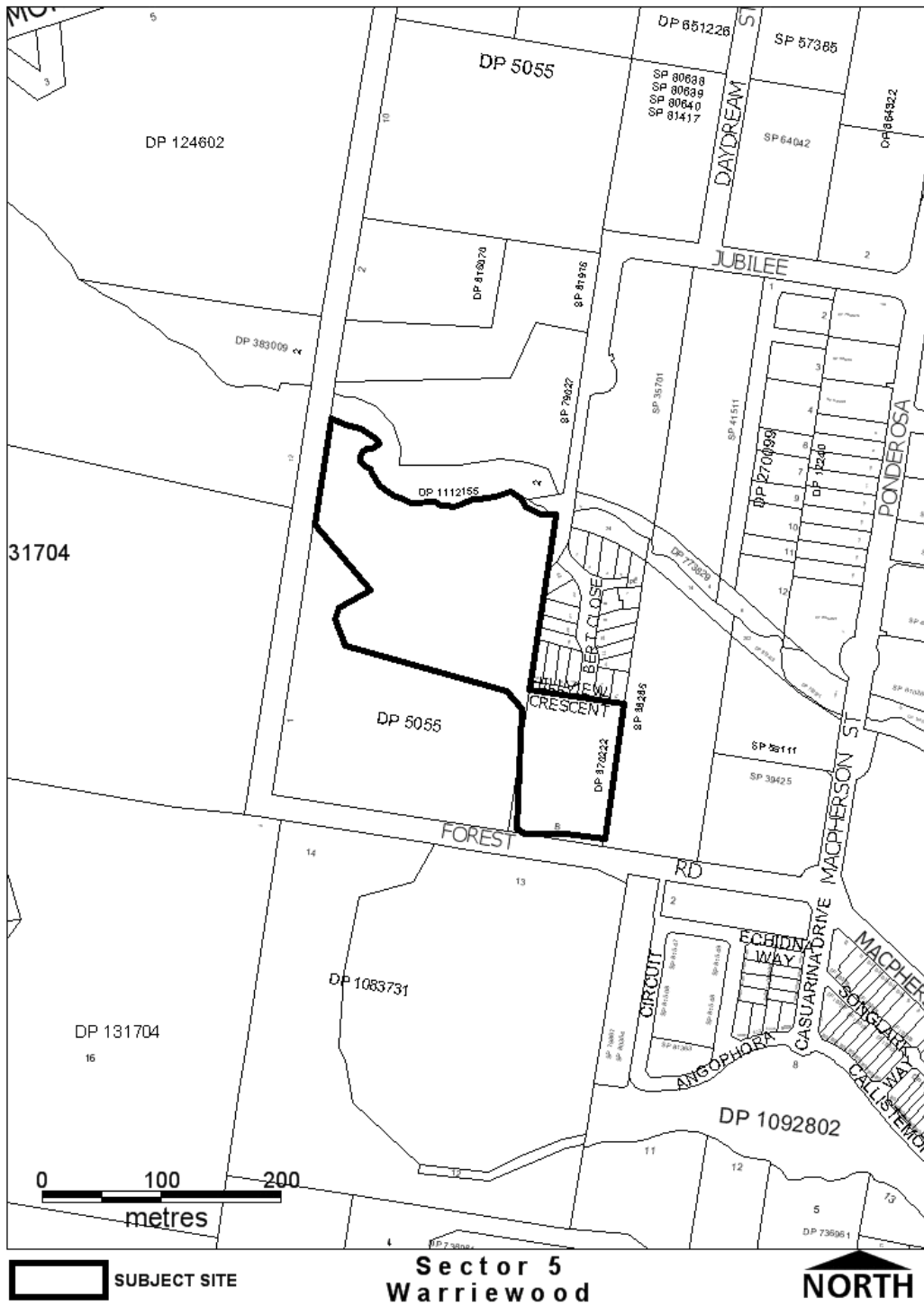
That Council be advised of the directions issued by the Department of Planning regarding the required community consultation.

That the outcomes of the community consultation process be reported to Council.

Report prepared by Kelly Wilkinson
Strategic Planner

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

LOCALITY MAP

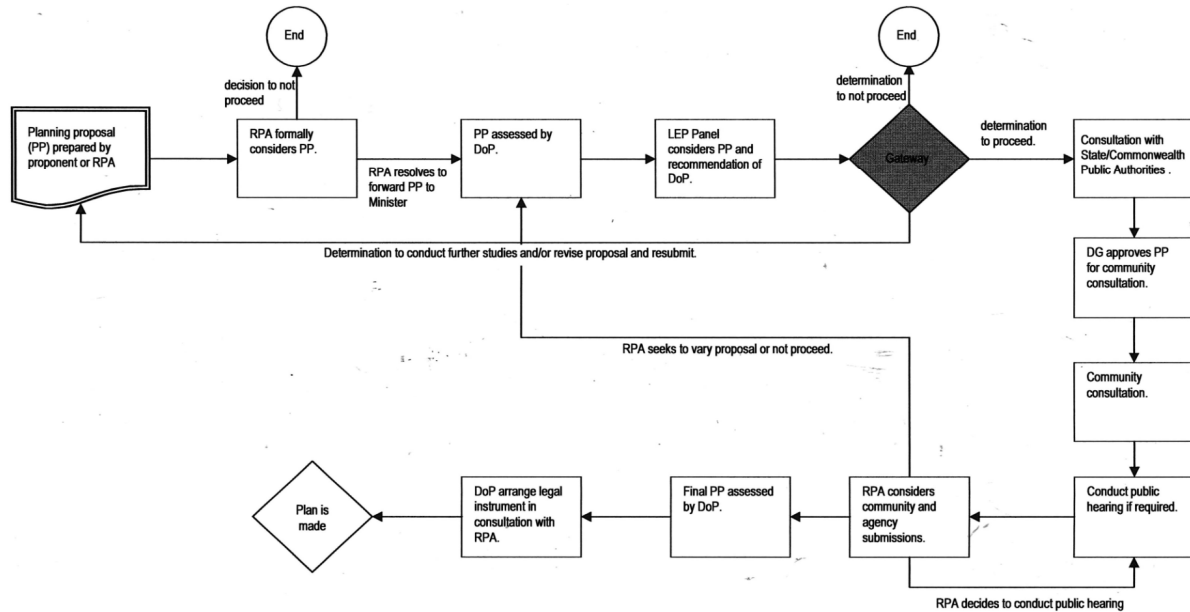


MASTERPLAN FOR SECTOR 5



DIAGRAM SHOWING NEW LOCAL PLAN MAKING PROCESS

Figure 5 – Process to make a local environmental plan



Please note:

- RPA means Relevant Planning Authority (such as Council)
- This diagram has been extracted from *A guide to preparing local environmental plans* prepared by Department of Planning (July 2009)



PLANNING PROPOSAL

To rezone lands in Sector 5 from non-urban to 2(f) (Urban purposes – mixed residential) to enable residential development in this sector of Warriewood Valley Urban Land Release

Prepared by Pittwater Council

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To rezone the subject lots, being 4 and 8 Forest Road in Warriewood (Lot 1 DP 5055 and Lot B DP 370222), which form Sector 5 of Warriewood Valley, from non-urban land to Zone 2(f) (Urban purposes – mixed residential) to allow residential development. See Appendix 1 for location map.

Following rezoning, the subject lots will allow not more than 75 residential dwellings and not less than 65 residential dwellings.

Rezoning the subject lots will make applicable a State imposed infrastructure levy, which applies to all residential land not yet rezoned within an urban land release area. The levy, which is currently \$17 000, is applicable at the subdivision stage and is calculated by the number of allotments created.

PART 2 EXPLANATION OF PROVISIONS

Amend the definition of “**the Zoning Map**” in Clause 5 of the *Pittwater Local Environmental Plan 1993* to include the zoning map for the Planning Proposal, being:

“Pittwater Local Environmental Plan 1993 (Amendment No. X) - Sheet 2.”

Amendment of Clauses 30B, 30C and 30E(8) of the *Pittwater Local Environmental Plan 1993*.

Clause 30B(1) would need to be amended to include:

“Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. X)””

Clause 30C would need to be amended to include:

“Sector 5 not more than 75 dwellings or less than 65 dwellings”

Clause 30E(8) would need to be amended to include in the definition for “*urban release area*”:

“Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. X)””

PART 3 JUSTIFICATION

A Need for the Planning Proposal

(A1) Is the planning proposal a result of any strategic study or report?

Yes. The Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council’s adopted strategy for the release of non-urban land in Warriewood Valley to allow urban purposes in accordance with the State Government’s Metropolitan Development Program (MDP).

A suite of studies undertaken in 1994, including a Bushfire Hazard Evaluation (1995), Contaminated Land Study (September 1993), Fauna Conservation Study (November 1994), Integrated Water Management Strategy (November 1997), Urban Land Capability Study (November 1993), and Vegetation Conservation Study (July 1994), informed the Warriewood Valley Urban Land Release Draft Planning Framework.

The Warriewood Valley Urban Land Release Draft Planning Framework identifies Sector 5, which comprises the subject lots, as non-urban land within Warriewood Valley to be rezoned for urban purposes.

- (A2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning proposal is the best means of achieving the intended outcome as it would be consistent with land already rezoned and developed in the Warriewood Valley Urban Land Release Area, which forms part of the State Government's MDP. The rezoning is consistent with The Warriewood Valley Urban Land Release Draft Planning Framework.

- (A3) Is there a net community benefit?

If Sector 5 were to be rezoned for urban purposes, this would be consistent with the land already released for development in Warriewood Valley, and subsequently this would positively contribute to the social and economic benefit achieved by Warriewood Valley on the whole.

Additionally, by rezoning Sector 5 to allow urban purposes, new dwellings will be permitted, which will contribute to fulfilling the housing requirements imposed by the Sydney Metropolitan Strategy, Draft North East Subregional Strategy and the MDP.

B Relationship to Strategic Planning Framework

- (B1) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

This planning proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy where goals are set for housing and land supply.

In the North East Subregional Strategy, Action C1 calls for ensuring the adequate supply of land and sites for residential development, where the MDP is the State Government's key program for managing and monitoring land and housing supply. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development.

This planning proposal would also be consistent with Action C4 of the North East Subregional Strategy, which calls for improving housing affordability, would by increasing the number of new dwellings available.

As the intended outcome of this planning proposal is to allow new residential development, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

- (B2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

This planning proposal is consistent with the Warriewood Valley Urban Land Release Draft Planning Framework, which is the underlying strategic plan for the release of land within Warriewood Valley, as discussed above (A1).

- (B3) Is the planning proposal consistent with applicable state environmental planning policies?

This planning proposal is consistent with the relevant State Environmental Planning Policies (SEPPs). The relevant SEPPs apply specifically to residential zones and will therefore be assessed the subject lots are rezoned and Development Applications are lodged. See Appendix 2.

As part of the rezoning application, an Ecological Assessment Report (Place Environmental 2004) was submitted, which flagged potential koala habitat in the area. However, no koalas were spotted during the duration of the study and the report included an assessment of significance, which was undertaken in accordance with Part 5A of the EP&A Act. Subsequently, SEPP No 44 – Koala Habitat Protection does not apply to this planning proposal.

- (B4) Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

This planning proposal is consistent with the applicable Ministerial Directions (S117 Directions). See Appendix 3.

As the subject lots are bushfire prone, in accordance with 4.4 (4) of the Ministerial Directions (Section 117(2) of the EP&A Act) the Rural Fire Service must be consulted following receipt of a gateway determination.

C Environmental, social and economic impact

- (C1) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject lots border the Warriewood/Ingleside escarpment and accommodate a portion of Fern Creek. Accordingly, an Ecological Assessment Report (Place Environmental 2004) was submitted as part of the rezoning application, which assesses any potential impact on flora and fauna, including assessments of significance in accordance with Section 5A of the EP&A Act, and provides mitigation measures to ensure there is no direct impact. Subsequently, there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of this planning proposal.

- (C2) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Other likely environmental effects resulting from this planning proposal relate to water management, bushfire hazard, waste management, contamination, geotechnical considerations, heritage, and traffic.

Several specific development controls are in place for development in Warriewood Valley, including those related to, water, bushfire prone land, waste, contamination, geotech, heritage, and traffic.

The following reports were submitted with the rezoning application as environmental assessments:

- A waste management statement (United Resources Management Group 2005)
- A Preliminary Geotechnical Investigation and Slope Stability Risk Assessment (Jeffery and Katauskas Pty Ltd 2005)
- A Concept Stormwater Management Plan (Brown Consulting NSW 2004)
- A Preliminary Site Contamination and Acid Sulphate Soil Investigation (Environmental Investigation Services 2005)

With regard to heritage, there are no known heritage items on or near the subject sites, and subsequently it is not considered necessary for a heritage assessment to be undertaken at the rezoning stage.

Following review of the rezoning application and associated documents, Council staff believe there is no significant reason why the subject lots should not be rezoned.

Additionally, the planning proposal will, when lodged as a Development Application, require assessment under Section 79C of the EP&A Act.

(C3) How has the planning proposal adequately addressed any social and economic effects?

As mentioned, the subject lots make up Sector 5 of the Warriewood Valley Urban Land Release in accordance with the State Government's Metropolitan Development Program (MDP). This planning proposal will subsequently be consistent with the vast area within Warriewood Valley that has previously been rezoned from non-urban to urban purposes. This planning proposal will therefore by no means have any negative marked social or economic effects.

Further, as the Warriewood Valley Urban Land Release is underlain by the Warriewood Valley Urban Land Release Draft Planning Framework (1997), a suite of studies have already been undertaken on Warriewood Valley as a whole to address social and economic effects.

D State and Commonwealth interests

(D1) Is there adequate public infrastructure for the planning proposal?

Yes. As the subject lots form part of the Warriewood Valley Urban Land Release, public infrastructure arrangements are currently in place through the Warriewood Valley Urban Land Release Draft Planning Framework (1997), which is now imposed by controls in Pittwater 21 Development Control Plan.

The exception is the State imposed infrastructure levy that will be required if the subject lots are rezoned and subdivision is undertaken.

(D2) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage. Council notes that this response will be amended following consultation after the gateway determination.

PART 4 COMMUNITY CONSULTATION

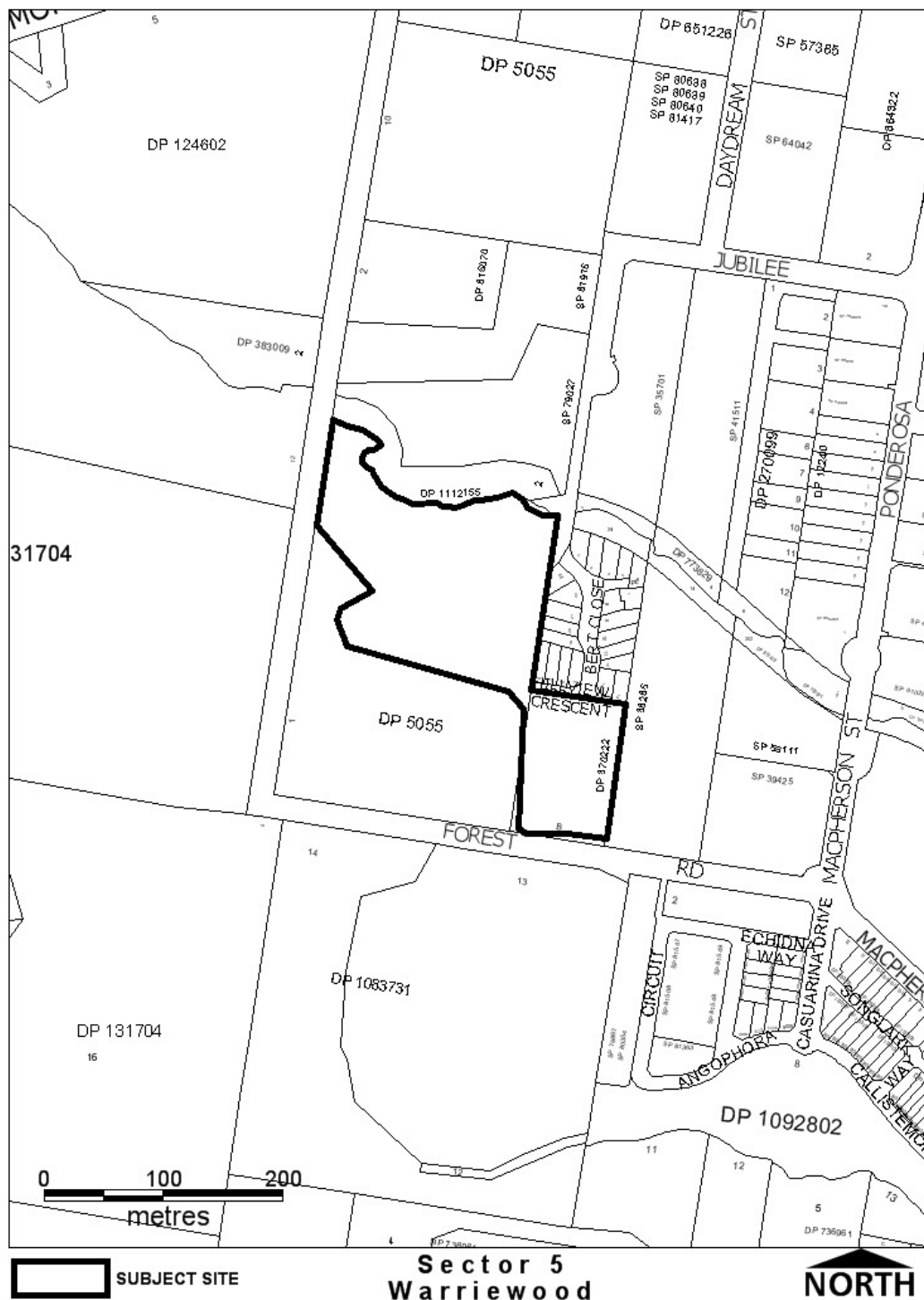
As the subject lots form Sector 5 within Warriewood Valley and is one of two Sectors still to be rezoned for residential purposes in Warriewood Valley, this planning proposal is consistent with the rezoning that has previously occurred in Warriewood Valley. Subsequently, this planning proposal is considered a 'low impact' planning proposal.

To be in keeping with *A guide to preparing local environmental plans* (Department of Planning 2009) the following community consultation is therefore considered appropriate:

- Advertising in the local newspaper at the start of the exhibition period
- Advertising on Council's website for the duration of the exhibition period
- An exhibition period of 14 days commencing the date the advertisement appears in the local newspaper

- Notifying the adjoining property owners by mail
- Notifying the Warriewood Valley Rezoning Association by mail

LOCALITY MAP



Checklist - Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development without consent...	YES	YES	
SEPP No 6 – Number of Storeys in a Building	NO	N/A	
SEPP No 10 – Retention of Low-Cost Rental Accommodation	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	NO	N/A	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	NO	N/A	
SEPP No 65 – Design Quality of Residential Flat Development	NO	N/A	

SEPP No 71 – Coastal Protection	NO	N/A	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	NO	N/A	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	NO	N/A	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	YES	YES	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	YES
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	YES	YES

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	YES	YES
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	YES	YES

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	YES
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development near Licensed Aerodromes	NO	N/A

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	YES
4.4	Planning For Bushfire Protection	YES	YES

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	NO	N/A

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.